

**AFFIDAVIT OF JESS H. DICKINSON**

**STATE OF MISSISSIPPI  
COUNTY OF HINDS**

PERSONALLY CAME and appeared before me, the undersigned authority in and for said county and state, within my jurisdiction, the within named JESS H. DICKINSON, who, having been duly sworn by me, states on oath the following:

1. My name is Jess H. Dickinson.
2. I am over the age of 21.
3. I am competent to address the matters set forth below in this Affidavit.
4. The matters set forth in this Affidavit are based on my personal knowledge and the business records of the Mississippi Department of Child Protection Services and its predecessor the Mississippi Department of Human Services Division of Family and Children's Services and are true and correct to the best of my knowledge, information and belief.

5. I am the Commissioner of the Mississippi Department of Protection Services. I have served in this position since September 18, 2017.

6. In this role, I manage at an executive management level the Mississippi Department of Child Protection Services.

**Separation of MDCPS and MDHS**

7. When this litigation was filed in 2004, Mississippi's child welfare system was administered by the Division of Family and Children's Services ("DFCS"), a division of the Mississippi Department of Human Services ("MDHS"). In July 2015, the Court ordered the Monitor to provide it with recommendations designed to improve DFCS's performance. In



November 2015, the Monitor recommended that DFCS separate from MDHS. On December 22, 2015, the Court entered an Interim Remedial Order (“IRO”), which required that Defendants begin implementing an “in-but-not-of” model that placed the DFCS within MDHS, but independent of MDHS management and oversight. During that same month, Governor Phil Bryant appointed David Chandler as DFCS’s Executive Director.

#### **Calendar year 2016**

8. In its 2016 session, the Legislature passed new legislation creating MDCPS as a new state agency, requiring it completely to separate from MDHS no later than June 30, 2018. See Miss. Code Ann. § 43-26-1. Separating from MDHS and creating a new, stand-alone state agency was a massive undertaking requiring a substantial commitment of financial and human resources. For example, MDCPS was required to form and staff its own human resources and payroll departments capable of handling personnel issues and payroll for more than 1,400 employees, as well as an information technology department capable of operating and maintaining the MACWIS data system, as well as administering the Agency’s computer networks for the Agency’s 85 offices and over 1,400 employees.

9. During the same session, DFCS’s budget request for SFY-2017 was pending, but the request did not include funding for the separation. As a result, DFCS submitted a revised budget request, increasing its request for state funds to \$132.18 million. However, the Legislature appropriated only \$111.78 million, \$20.40 million less than the revised budget request.

10. On May 25, 2016, in response to a requirement of the IRO, MDCPS completed a Recruitment, Hiring and Retention Plan (“Recruitment Plan”) which set forth MDCPS’s plan to

increase its workforce by more than 500 staff. Despite receiving only \$111.78 million in state funds for SFY-2017, the Recruitment Plan stated:

For SFY2017, we have received funding for 255 additional field staff positions. The Agency will use the most current workload data available for budget requests for SFY2018.

In response, MDCPS began aggressively hiring new staff in July 2016, which marked the beginning of SFY-2017.

11. In preparation for submitting MDCPS's SFY-2018 budget request, MDCPS anticipated the financial cost of MDCPS's commitment to increase its frontline staff, and the cost of separating MDCPS from MDHS. The result of this assessment was set forth in a July 27, 2016, memorandum from Takesha Darby, the MDCPS Deputy Commissioner of Finance ("Ms. Darby"). The memorandum documented that funding the additional staff and the separation from MDHS would require a state-fund appropriation of \$128.95 million for SFY-2018.

12. MDCPS submitted its SFY-2018 budget request with the Legislative Budget Office requesting a state appropriation of \$113.98 million, which was \$14.97 million less than the SFY-2018 Darby need projection and an increase over the SFY-2017 appropriation of only \$2.20 million.

13. In December 2016, following the submission of its FY-2018 budget request, MDCPS and Plaintiffs reached two agreements, the STRO and the 2<sup>nd</sup> MSA. The 2nd MSA's 2018 requirement included 113 performance measures for MDCPS to achieve.

14. One of the performance requirements of the STRO was that MDCPS had twelve months to increase the percentage of its caseworkers in compliance with the 2nd MSA's weighted value caseload cap from a 31% September 30, 2016, baseline established by Public Catalyst to 90% by December 31, 2017. To accomplish this ambitious goal, MDCPS

immediately needed to start hiring and training hundreds of new caseworkers, which would require substantial funding that the Agency had not been granted.

### **2017 Legislative Session**

15. January 2017 was a pivotal month for MDCPS's financial fate. MDCPS had just signed the 2nd MSA, and the Legislature had just begun its 2017 session. January 2017 also began the 12-month Capacity Building Year during which MDCPS was to build its capacity to comply with the 2<sup>nd</sup> MSA's requirements. Under these circumstances, if MDCPS had any hope of coming into compliance with the 2nd MSA, it needed the Legislature to appropriate substantial additional funding for MDCPS's SFY-2018 budget, which MDCPS would not begin receiving until half the Capacity Building Year had passed. MDCPS was required to operate the first six months of the Capacity Building Year with the balance left in its SFY-2017 appropriation, which was \$20.40 million less than MDCPS had requested (\$132.18 - \$111.78). The Legislature had pending before it MDCPS's SFY-2018 budget request for a state-fund appropriation of \$113.98 million, which had been submitted in September 2016, prior to the entry of the 2nd MSA. This request was \$14.97 million (\$128.95 -\$113.95) less than the Darby memo projected the Agency would need to fund hiring 500 additional staff and pay the costs associated with the separation of MDCPS from MDHS.

16. Rather than providing MDCPS the \$113.98 million MDCPS had requested, the 2017 Legislature appropriated MDCPS only \$97.97 million for SFY-2018, which was a \$16.01 million reduction from MDCPS's request, and far short of the amount necessary to come into compliance with the 2nd MSA. This appropriation also was \$30.98 million (\$128.95 -\$97.97) less than the Darby SFY-2018 need projection.

17. At this point, MDCPS did not have enough funds to proceed with the Comprehensive Child Welfare Information System (“CCWIS”) project or the necessary additional hiring that was planned. To operate the Agency with its substantially slashed budget, MDCPS needed immediately to begin planning substantial cuts to its obligations going forward. However, in an attempt to comply with the requirements of the 2nd MSA, the Agency moved forward with signing new contracts, hiring staff, funding the separation of MDCPS from MDHS, and funding the CCWIS project.

18. While the \$97.97 million appropriation represented a \$16.01 million (\$113.981 - \$97.97) reduction from MDCPS’s SFY-2018 budget request, it represented a far larger cut to MDCPS’s overall budget because of the loss in federal matching funds. For instance, in the MDCPS memorandum of July 27, 2016, MDCPS documented the need for a budget increase of \$26.69 million “of which \$16.66 is being requested in State funding and the remaining balance of \$10.03 million will be anticipated federal funding. As another example, because the federal government provides a dollar-for-dollar match for MDCPS’s CCWIS project, had the Legislature provided the additional \$16 million for the CCWIS project, the federal government would have matched it with an additional \$16 million, thereby providing funding to MDCPS of \$32 million.

#### **Change in MDCPS Administration**

19. On August 8, 2017, David Chandler announced he was retiring as MDCPS’s Commissioner, and Governor Bryant appointed me as MDCPS’s new Commissioner. When I began my duties on September 18, 2017, almost three months of the fiscal year had passed and MDCPS had expended much of its SFY-2018. Only three months and 12 days remained before the end of 2017, which was an important date for two reasons.

20. First, with respect to caseloads, December 31, 2017, was MDCPS's deadline to raise the percentage of its caseworkers in compliance with the 2nd MSA's fixed caseload caps from 50% when my tenure began, to 90%. Second, January 1, 2018, marked the beginning of the year during which the Monitor was to begin measuring MDCPS's performance for compliance with many of the requirements of the 2nd MSA.

21. On November 15, 2017, MDHS's finance staff advised that MDCPS would not have enough state funds to operate the Agency for the balance of the fiscal year.

22. Because MDCPS had been operating without a formal operational budget, my staff and I conducted an internal investigation to learn the Agency's true financial condition. This had to be done by hand, by pulling all MDCPS's outstanding contracts and calculating the remaining work to be done and the cost of that work, all expected salaries, board payments and other obligations, and then calculating the amount of expected federal funds to support those obligations.

23. Through the investigation in these early months of my administration, I discovered that (a) MDCPS had not analyzed and quantified the financial impact of the obligations in the STRO and the 2nd MSA; (b) MDCPS had not developed a formal operational budget and was unable to monitor its cash flow or determine its SFY-2018 financial obligations and available funding; and (c) MDHS had committed its TANF and SSBG federal funding to other projects and did not intend to use them for eligible MDCPS expenses, as it had in past years. The juxtaposition of all of these events, and the increased Capacity Building Year expenses and commitments, placed MDCPS at risk of an imminent, potentially devastating financial crisis.

24. My staff and I determined that unless the Agency took immediate remedial action, it would accumulate a deficit by the end of SFY-2018 of approximately \$52 million. Realizing that MDCPS could not overcome a deficit of this magnitude without a combination of additional funds and cuts to expenses, we began looking for solutions. Soon thereafter, we developed and implemented the following plan:

- MDCPS cancelled certain contractual obligations to outside contractors that could safely be handled in-house;
- To keep salary costs level, MDCPS limited hiring to replacing departing staff;
- MDCPS placed a hold on CCWIS development;
- I met with the appropriate members of the Legislature to inform them of the agency's financial crisis and seek additional support through a deficit appropriation;
- MDCPS collaborated with MDHS regarding MDCPS's financial needs and possible remedies, and we worked with the Legislature to seek solutions;
- MDCPS requested the Legislature to amend the statute that required MDHS and MDCPS to separate completely so that the two agencies could re-combine back-office operations, and MDCPS could continue to have access to certain federal funds through MDHS; and
- I met with MDHS Executive Director Davis to request financial support by continuing to provide TANF and SSBG funds for qualifying MDCPS programs and expenses.

25. We kept Plaintiffs' counsel and the Monitor advised of these events and as they developed. MDCPS formally met with Plaintiffs' counsel on March 1, 2018, to review the financial crisis and the actions that were necessary to resolve the crisis, including the limitation on hiring, the CCWIS delay, submission of a revised budget request for SFY-2019 and its

potential impact of these developments on the delivery of foster care services. On March 8, MDCPS provided Plaintiffs with an overview and detailed financial analysis of these matters .

26. By March 2018, MDCPS had successfully implemented the steps necessary to avoid the immediate financial crisis. The Legislature had amended Section 43-26-1 to allow MDCPS to remain a sub-agency of MDHS, and MDHS pulled back \$30 million in TANF funds it had committed to other projects, and used them to pay eligible MDCPS expenses. But while these steps avoided a financial crisis for MDCPS, they did not provide the additional funds necessary to lift the limitation on hiring or restart the CCWIS project; and by this time, the first three months of 2018 already had passed, and this was the year during which MDCPS's performance was being reviewed for compliance with the 2nd MSA. So, with respect to many of MDCPS's performance requirements under the 2nd MSA, the crisis was far from over. CCWIS production needed to resume, and the Agency needed to increase the net number of frontline caseworkers and staff, but it did not have the funds to do either. And, without increased field staff, many of the 2nd MSA's requirements were not attainable. Moreover, MDCPS had little hope of improving these conditions because SFY-2019, which was to begin on July 1, 2018, already had been appropriated.

27. For most of the previous administration, MDCPS had four Deputy Commissioners: Tracy Malone, the Deputy Commissioner of Child Welfare; Kristi Plotner, the Deputy Commissioner of Administration; Takesha Darby, the Deputy Commissioner of Finance; and Cindy Greer, the Deputy Commissioner of Information Technology and CQI.

28. Around June of 2018, MDCPS reorganized its leadership structure. Responsibility for information technology was given to a newly created position of Chief Information Officer reporting to the Deputy Commissioner for Administration. In addition, the position of Deputy

Commissioner for Child Safety was created and given responsibility for MDCPS's licensure units, therapeutic and prevention services units, special investigations unit, and continuous quality improvement unit. The members of MDCPS's current executive leadership team are Kris Jones (Deputy Commissioner of Administration), Tonya Rogillio (Deputy Commissioner of Child Welfare), and Dr. Jaworski Davenport (Deputy Commissioner of Child Safety), and these child-welfare professionals are just as qualified as their predecessors.

29. During the past twenty months, MDCPS has (i) achieved the greatest decrease in the number of children in custody in the State's history; implemented a highly successful prevention program; and (ii) achieved the greatest annual increase in adoptions in Mississippi's history by more than doubling the number of adoptions completed in SFY-2017 in both SFY-2018 and SFY-2019.

#### **SFY-2019 MDCPS Budget**

30. Prior to the beginning of my administration, MDCPS had submitted to the Legislature a budget request of \$113.24 million for its SFY-2019 budget. After discovering MDCPS's looming financial crisis and realizing that MDCPS's budget request was far short of the Agency's needs, I worked with my executive leadership team to present an amended budget request for \$133.63 million, and on multiple occasions I advised the Legislature, including the Appropriations Committees of both the House and Senate, that the amended budget request was necessary to properly operate the Agency and comply with the requirements of the *Olivia Y* litigation. The Legislature responded by appropriating MDCPS only \$109.99 million for SFY-2019, leaving the Agency \$23.64 million (\$133.63 - \$109.99) short of its needs. As a result, for the balance of 2018, while the Monitor completed its evaluation of MDCPS's performance under

the 2nd MSA, the Agency had no additional funds to increase its field staff or support staff in the state office, nor could it resume CCWIS development.

**Plaintiffs' Contempt/Receiver Motion Related  
to the 90% Caseload Cap and Defendants' Rule 60(b) Motion.**

31. On March 5, 2018, Plaintiffs' counsel gave notice of Plaintiffs' intention to file a motion based on the Agency's failure by December 31, 2017, to achieve 90% compliance with the fixed case load cap. Plaintiffs' counsel followed up on May 31, 2018, by filing a motion, asking this court to hold MDCPS in contempt for failure to achieve the 90% caseload cap and place MDCPS in a receivership. On July 3, 2018, Defendants timely responded to the motion.

32. On July 3, 2018, pursuant to Section 11.2.a. of the 2nd MSA, Defendants' filed a Rule 60(b) motion for relief concerning the 2nd MSA's fixed 90% caseload cap. Plaintiffs responded, and this Motion still is pending before the Court.

33. From July 1, 2018 through June 30, 2019, MDCPS's budget had been set, and the lack of additional funding for SFY-2018 required that MDCPS continue its hiring limitation and delay in CCWIS development. Nevertheless, even with its limited resources, MDCPS made significant progress.

**MDCPS's SFY-2020 Budget**

34. On August 10, 2018, MDCPS filed its budget request for SFY-2020 which the Legislature would consider in its 2019 session. In its budget proposal, MDCPS requested \$135.74 in state funds which, if appropriated, would have provided additional funding for wages and salaries. I made presentations to the House and Senate Appropriations Committees to explain the need for additional funding to properly operate the Agency and to comply with the requirements of the 2nd MSA.

35. In response, the Legislature provided MDCPS a state-fund appropriation of \$125.71 million, which was \$10.03 million less than MDCPS requested, but which exceeded each of its two preceding fiscal year budget appropriations respectively by \$15.74 and \$15.72 million. With the new funds available to it effective July 1, 2019, MDCPS lifted the limitation on hiring, and began working to fill every preservice training class for caseload carrying staff to capacity. It also directed that all hiring of caseload carrying staff be based on caseload data and specific staffing needs, and allowed for the hiring of one supervisor for every five caseload carrying staff hired, consistent with the 2nd MSA's required supervisory ratio. Moreover, MDCPS mandated that non-caseload carrying positions be backfilled only as they are vacated, and that additional non-caseload-carrying positions be filled on an as needed basis if approved by MDCPS's executive management. The Agency also ended the CCWIS delay and began working in conjunction with the Mississippi Department of Information Technology to prepare a request for proposals to replace its antiquated MACWIS system with a federally compliant CCWIS system by the 2nd MSA's June 30, 2021 deadline.

#### **Caseload Standards and Compliance**

36. Public Catalyst established a 9/30/2016 baseline for utilization of the weighted value system: Overall 31% of MDCPS frontline caseworkers carried caseloads within the 1.0 Met standard; another 12% were in the Close category of greater than 1.0 to 1.2; the combined Met/Close percentage was 43%; and the percent above 1.2 or "Over" was 57%.

(a) On September 15, 2017, only two days before I assumed my duties on September 17, 2017, with only 3 months and 12 days until the December 31, 2017 deadline, the Met percentage was 50%, Close was 14%, the Met/Close percentage was 64%, and the Over percentage was

36%. The most current Caseload report (7/31/2019) reflects that the Met percentage is 55%, the Close percentage is 22%; Met/Close is 77%, and Over is 23%.

(b) Using the September 2016 baseline, and the most current caseload data, this information establishes the following relevant facts related to caseloads:

The Met percentage has increased by 77% (31% to 55%).

The Close percentage has increased by 83% (12% to 22%).

The Met/Close percentage, which is a more accurate reflection of performance, has increased by 79% (43% to 77%).

The Over percentage has decreased by 60% (57% to 23%).

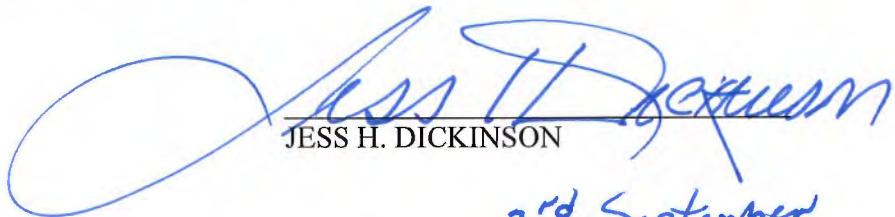
(c) MDCPS has implemented numerous programs designed to improve caseloads by aggressively hiring caseworkers, providing enhanced training, increasing the pay of front-line workers, hiring additional field supervisors, and implementing caseload management and data driven decisions. With the additional \$15.74 million in state funding for FY 2020, the lifting of the Hiring Freeze, increased case worker hiring, and other programs designed to increase caseworker retention and improve caseloads, the Met, Close and Met/Close percentages will continue to improve and the Over will continue to decline.

#### *Investigation of Maltreatment in Care*

37. All reports of child maltreatment are received by Mississippi Centralized Intake (“MCI”). MCI screen outs receive four levels of quality control review. Maltreatment in Care investigations receive two levels of quality control review. While some errors are present in any system operated by people, the system includes multiple layers of quality control. In an effort to eliminate some of the human error when report are received and calls are coded for review, MDCPS has had procurement underway to shift MCI from being totally contracted out to a private vendor to an arrangement in which MDCPS directly manages contract call-answering

staff. This arrangement will give MDCPS more direct control in preventing human error at the hotline.

FURTHER AFFIANT SAYETH NOT, this the 3<sup>d</sup> day of Sept., 2019.

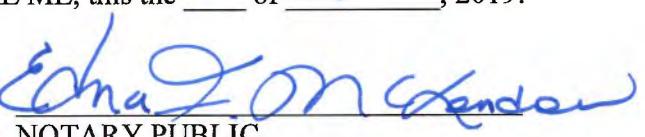
  
Jess H. DICKINSON

SWORN TO AND SUBSCRIBED BEFORE ME, this the 3<sup>rd</sup> of September, 2019.

My Commission Expires:

5/22/2022



  
Edna FAYE McLENDON  
NOTARY PUBLIC